



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 34 and 45

[Docket No.: FAA-2012-1333; Amendment Nos. 34-5 and 45-28]

RIN 2120-AK15

Exhaust Emissions Standards for New Aircraft Gas Turbine Engines and Identification Plate for Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; disposition of comments.

SUMMARY: On December 31, 2012, the FAA published a final rule with a request for comments amending the emission standards for turbine engine powered airplanes to incorporate the standards that were promulgated by the United States Environmental Protection Agency (EPA) on June 18, 2012. The FAA's final rule fulfilled its requirements under the Clean Air Act Amendments of 1970 to issue regulations ensuring compliance with the EPA standards.

Although the public had an opportunity to comment on the EPA's rule, and the FAA adopted the same requirements, the FAA sought public comment on its final rule. This action addresses the comments the FAA received.

DATES: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESS: You may review the public docket for this rulemaking (Docket No. FAA-2012-1333) at the Docket Management Facility in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, SE., Washington, DC, 20590-0001 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the public docket on the Internet at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Aimee Fisher, Emissions Division (AEE-300), Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267-7705; e-mail Aimee.Fisher@faa.gov.

For legal questions concerning this action contact Karen Petronis, International Law, Legislation and Regulations Division (AGC-200), Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591; telephone (202) 267-3073, e-mail Karen.Petronis@faa.gov.

SUPPLEMENTARY INFORMATION

Background

Section 231(a)(2)(A) of the Clean Air Act (CAA) (42 USC 7571) directs the Administrator of the EPA to propose aircraft emission standards applicable to the emission of any air pollutant from classes of aircraft engines which, in the EPA Administrator's judgment, causes or contributes to air pollution that may reasonably be anticipated to endanger public health or welfare. These emission standards have been promulgated by the EPA in 40 CFR part 87.

Section 232 of the CAA (42 USC 7572) then directs the FAA to prescribe regulations to ensure compliance with the EPA's standards. The FAA has promulgated these emission standards in 14 CFR part 34, and in the engine marking requirements in part 45.

The EPA initially regulated gaseous exhaust emissions, smoke and fuel venting from aircraft in 1973, with occasional revision. Since the EPA's adoption of the initial regulations, the FAA has taken subsequent action to ensure that the regulations in 14 CFR are kept current with the EPA's standards.

On July 27, 2011, the EPA proposed new aircraft engine emission standards for oxides of nitrogen (NO_x), compliance flexibilities, and other regulatory requirements for aircraft turbofan or turbojet engines with rated thrusts greater than 26.7 kilonewtons (kN) (76 FR 45012). The EPA also proposed adopting the gas turbine engine test procedures of the International Civil Aviation Organization (ICAO). The final rule adopting these proposals was published on June 18, 2012 (77 FR 36342), and was effective July 18, 2012.

On December 31, 2012, the FAA published a final rule with a request for comments (77 FR 76842) adopting the EPA's new emissions standards in part 34. Although the EPA's NPRM presented an opportunity to comment on the proposed regulations and the EPA addressed them in its final rule, the FAA sought public comment on its final rule.

Discussion of Comments

The FAA received three comments on the final rule.

Aerospace Industries Association (AIA) expressed support for the requirements in the final rule, noting that the changes would harmonize U.S. regulations with those of ICAO. The AIA noted that some language in both the FAA and EPA rules differ from that which was agreed to by ICAO's Committee of Aviation Environmental Protection. The AIA stated that these differences would result in some unnecessary complication and manufacturer cost, and cited as an example the term "excepted" for spare engines that do not need to meet the production cutoff requirements. Current engine labeling allows the terms "COMPLY" or "EXEMPT" for emissions, and AIA believed these terms should continue to be used.

Rolls-Royce Group stated that it participated in generating the comments submitted by AIA, and endorsed AIA's comments.

The FAA notes that AIA raised this same issue in its comments to the EPA's NPRM. In its final rule, the EPA offered the following support for its decision not to change what it proposed despite AIA's comment:

- The Tier 6 production cutoff does not apply to the continued production of engines that are designated spares. Spare engines are produced to replace a similar engine already in service that was removed from service for maintenance purposes. Accordingly, the production of a spare engine is not restricted by the production cutoff, and the regulation does not apply to these engines.
- The non-applicability of the cutoff eliminates the need to process an exemption for continued production of these engines beyond December 31, 2012.
- Conversely, engines that are intended to be produced for new installations (i.e., not replacing an engine already in service) are subject to the production cutoff regulation and the continued production of such engines beyond the cutoff date would require a grant of exemption.
- Since the production of spare engines is not subject to the new cutoff regulations, the FAA proposed and the EPA accepted the idea that referring to these engines as exceptions to the regulation was more appropriate than requiring case-by-case consideration of exemptions when the regulation did not apply.
- The word "exemption" has a specific legal meaning. In 14 CFR Part 11 the FAA uses it to mean that an applicant is subject to a particular regulation and is requesting time limited relief under a specific set of criteria. It is a specialized form of rulemaking.
- When an entity or its product is specifically excluded from a regulatory provision, it is considered "excepted."

The FAA believes that the rationale for using the word “excepted” continues to be valid, and both agencies use the term in the final rules with the same meaning and intent. No change is being made to the rule based on the comments of AIA and Rolls Royce.

Pratt & Whitney supported the FAA’s implementation of the NOx emission standards promulgated by the EPA, as the EPA rule reflects U.S. efforts to harmonize domestic emission standards with the international standards adopted by ICAO. In the event that a substantive difference between the FAA’s and EPA’s final rules is discovered, Pratt & Whitney attached its comments to the EPA’s proposed rulemaking. Pratt & Whitney’s comment did not specify any instance where substantive differences might exist between the FAA and EPA final rules. No change is being made to the rule based on Pratt & Whitney’s comment.

Conclusion

After analyzing the comments submitted in response to this final rule, the FAA has determined that no revisions to the rule are warranted based on the comments received.

Issued under authority of 49 U.S.C. 106 and section 232 of the Clean Air Act (42 U.S.C. 7571) in Washington, DC, on October 1, 2013.

Lirio Liu

Director, Office of Rulemaking

[FR Doc. 2013-24713 Filed 10/22/2013 at 8:45 am; Publication Date: 10/23/2013]